IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2032 of 1995

Between:

G.Ganesh Babu S/o.Ramchandra Rao
R/o.Visakhapatnam.

..... PETITIONER

AND

1 Land Acquisition Officer and Revenue Divisional Officer
Nuzvid, Krishna District.
2 District Collector,
Krishna District.
3 Mandal Revenue Officer
Reddygudem, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an writ, order or direction more particularly one in the nature of Certiorari to call for the records and quash the Draft Notification issued by 3rd Respondent under Section 4(A) dated 3-6-94 published in the District Gazette at page No.3 and all other consequential notices as void and contrary to the law and pass such other or further orders as may be deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.T.DASARADHA RAMAIAH

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following:

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P.No. 2032 of 1995

O R D E R:

This Writ Petition is filed by the petitioner questioning the Notification issued under Sec.4(1) of the Land Acquisition Act under which an extent of 2 acres in Sy.No.132/2B of Pathanaguluru village of Krishna district was sought to be acquired for the purpose of providing house sites to the weaker sections of the society.

2. According to the petitioner, though the land originally belongs to his maternal grandfather, under a Gift Deed dated 07.06.1994 an extent of Ac.2-49 cents in Sy.No.132/2 was given to the petitioner, and thus he became the owner of the said property. But, however, the authorities did not issue any notice to the petitioner, but served the notice only on the petitioner's grand father, though he ceased to be the owner of the property in question. Therefore, the acquisition proceedings are vitiated and are sought to be quashed. Alternatively, the petitioner contended that during the course of Sec.5-A enquiry, they have stated that some other land belongs to third party was available, which is abutting to the main road, and which is more suitable to the house-sites than the land under acquisition. It is also stated that the land, which is sought to be acquired is a mango garden, and there are 40 mango trees and 72 coconut trees in the said land. Therefore, it is not proper for the respondent-authorities to acquire the said land, which will not only deprive the petitioner of the said property, but also incurs heavy expenditure for the Government to acquire the said property.

3. The learned counsel for the petitioner submits that the petitioner is having only Ac.2.49 cents, out of which Ac.2-00 is now sought to be acquired, and in the said

proposed land there are mango and coconut trees are existing, and therefore, the proposed acquisition is not proper and just. It is also stated that there is an alternative vacant land available in the village, which is, in fact, nearer to the village than the land of the petitioner, and it is very much useful for the purpose of providing house-sites to the weaker sections.

4. Though no counter has been filed on behalf of the respondents-authorities, the learned Government Pleader, however, opposed the contention of the learned counsel for the petitioner. It is also represented that by virtue of the interim order passed by this Court, the authorities are unable to proceed with the acquisition proceedings.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition, and considered the material on record.

6. It is not in dispute that Sec.4(1) Notification was issued by the authorities on 3.6.1994 proposing to acquire the land of the petitioner to an extent of Ac.2.00. Before the said notice, the said land along with another Ac.0.49 cents was gifted to the petitioner by his grand father. As his name was not entered in the revenue records, notice was given to the person on record i.e., grandfather of the petitioner, as he was shown as owner of the land in the records. From the notification it is clear that the respondents-authorities have proceeded to acquire the land for providing house sites. Though the notification was issued in the year 1994, but by virtue of the interim orders passed by this Court, the respondents are not allowed to proceed with the said acquisition.

7. Under the above circumstances, the Writ Petition is disposed of directing the respondents to take further steps as per the notification, if the land is still required for providing house sites. However, if an alternative land has already been acquired for the purpose of providing house sites, the respondents may take appropriate steps to de-notify the land under acquisition.

8. The Writ Petition is accordingly disposed of with the above directions. No costs.

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S. Ananda Reddy, J.

Dt. 02.12.2004

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To

1. The Land Acquisition Officer and Revenue Divisional Officer Nuzvid, Krishna District.

2. The District Collector, Krishna District.

3. The Mandal Revenue Officer, Reddygudem, Krishna District.

4. Two CCs to the G.P. for Land Acquisition, High Court of A.P., Hyderabad (OUT).

5. Two CD copies.